

LEGAL INTELLIGENCE.

SUPREME COURT.

(Before His Lordship Sir J. W. Carrington, Kt., C.M.G., Chief Justice.)

November 30th.

ROBINSON V. EMSELY.

The case between Benjamin Emsey and the Robinson Piano Co. for wrongful dismissal and the action brought by the latter for an injunction against Mr. Emsey from carrying on business as piano tuner, was taken together to-day.

Mr. J. J. Francis, Q.C. (instructed by Mr. J. Havelock) appeared on behalf of the Robinson Piano Co. and Mr. Emsey appeared in person. R.C. Emsey said he was employed in the New Victoria Hotel as clerk. During the day witnesses were in the bar and kept the accounts. There were accounts against Mr. Emsey for August last which amounted to \$16.50, \$2.25 for meals and the rest for drink. Witness then gave details of bills signed by Mr. Emsey. Witness had himself seen him Mr. Emsey in the hotel occasionally during the day and sometimes in the evening.

By Mr. Emsey—He saw witness playing billiards very often at times he played for a long time after dinner. At a low average Mr. Emsey spent at \$1.50 a month at billiards.

Re-examined by Mr. Francis—Mr. Emsey played billiards well. L.D. Kelly, who was an assistant in the employ of the Robinson Piano Co. with whom he had been for four years. He was employed as salesman. While in Hongkong Mr. Emsey had been working in the piano store. He was not very punctual. Mr. Emsey did not stick steadily to his work in the store. He frequently went in and out, to the Grill Room and the Victoria Hotel. On these occasions he would be absent for 15 or 20 minutes. Witness had seen him playing billiards at the Grill Room during business hours. On several occasions he went out with people who came in to see him and sometimes with Mr. Springfield. Mr. Emsey had been absent from work for whole days. Witness had not at any time seen him under the influence of drink.

By Mr. Emsey—It was a fact that witness and Mr. Emsey were not on speaking terms for some time past. Mr. Robinson had asked him to take note and report the European staff while he was away. Subsequently witness said he did this on his own initiative.

L.D. Kelly, who was employed in the Thomas Grill Room, said he knew Mr. Emsey by sight. He had seen him at the Grill Room sometimes playing billiards. He generally saw him there at 10 or 11 in the afternoon but he was seldom at five. He saw Mr. Emsey on witness saw Mr. Emsey in the morning it was for a glass of beer and sometimes he saw him after five playing billiards and drinking. The bills for billiards and drinks were of different colours. Sometimes Mr. Emsey signed bar bills for billiards.

Mr. Francis said that Mr. Drewes of the Playa East Hotel was sick and unable to be present and that Dr. Jordan had not kept his promise to be at the Court at 11.

The Chief Justice said that Dr. Jordan's evidence could be dispensed with but that it would be fair for both sides that Dr. Jordan should be called.

Mr. Francis closed his case subject to Dr. Jordan being called.

Mr. Emsey then opened his case by calling evidence.

George Springfield said he was a practical pianist tuner, until recently in the employ of the Robinson Piano Co. For some three years before coming out he was in the employ of Messrs Phillips & Co., London, as tuner. He remembered seeing Mr. Emsey enter the workshop about the end of August and that Mr. Emsey informed him that he had been caught in the act of stealing. Mr. Emsey did not come to work that afternoon and witness visited him that afternoon shortly after five o'clock. At that time witness was living in the same boarding house, Mrs. Mather's. He remembered Mr. Emsey telling him that he did not feel at all well. Mr. Hickey also called that afternoon. He would certainly say that Mr. Emsey was ill. Witness also visited him about 8 or 9 o'clock when Mr. Emsey had a cold in the stomach. Mr. Hickey and another friend were also there. Witness was present on one occasion when the shop-boy of the Robinson Piano Co. came up and spoke in and went hurriedly away as if he was afraid. He remembered Mr. Robinson suggesting Mr. Emsey at the latter end of August. He knew of his own knowledge that each morning after his suspension he was ready at the workshop for business. Witness was present on one occasion when Mr. Emsey asked Mr. Robinson if he had anything for him to do and Mr. Robinson said "No." He remembered Mr. Emsey being sent to the workshop sometime in August to ship and rough up pianos. This work was done at home by apprentices and boys, like Rockwald. Many a practical man would refuse to do such work. Sometime in September Mr. Robinson told witness to cancel his agreement subject to three months' notice. Witness agreed and Mr. Robinson substituted it by another agreement, terminal at a month's notice on either side. Witness refused to sign it. Mr. Robinson said "It is nothing to do with you. It is on account of the proceedings of Mr. Emsey."

By Mr. Francis—He had been in the Grill Room in August and September during office hours. He remembered being drunk and having a fight with Mr. Emsey at the Playa East Hotel on a Saturday in June. Witness went out on that day to look for rooms. Witness went to the Grill Room every two or three times for breakfast.

Re-examined by Mr. Emsey—He had no recollection of playing billiards with Mr. Emsey during business hours. He had seen him playing billiards but he never received any commission. He did not ask for any as he did not expect Mr. Robinson to give it to him. The phrase in the contract about the usual commission was an extra inducement for witness to come out.

Mr. Francis said that he had always been the custom to the Supreme Court at which witness person conducted his own case he was only allowed to give evidence and not make any speech.

The Chief Justice said he would look up the point during the luncheon hour.

On the Court resuming the Chief Justice, taking the ruling of the Court of Appeal in the case of Cobbold v. Webster as a precedent, decided that Mr. Emsey was entitled to both give evidence and to address the Court.

Mr. Emsey indicated that he preferred to address the Court as an advocate only. He said that he came out under an agreement to receive the equivalent of £15 and the usual commission. Mr. Robinson absolutely refused to allow it to which Mr. Emsey replied that it was tantamount to bringing men out under false pretences. He said that Mr. Robinson had made several willful misstatements, to wit, his statement that

Mr. Emsey was in communication with Moutrie's tuner and knew of his going to Hinkow, whereas Mr. Emsey contended that he met him for the first time at Hinkow eight days afterwards, he being introduced by Mr. Law, manager of Messrs. A. S. Watson & Co. He contended that Mr. Robinson had plenty of time to alter the clause about commission from the time Mr. Hickey had come out till Mr. Miles was brought out eighteen months later, and he did not do so because of it being an inducement for getting men to come out here. It was never his custom to frequent hotel bars and idle away business hours. The boy from the Grill Room was pretty distinct in saying that almost always he only played billiards after five. He contended that his relations with Mr. Robinson were strained from the time he came over from Singapore and trying to give him as much annoyance as he possibly could. He contended that the agreement was a very unfair one. He was brought out here and he objected to Mr. Robinson's terms he had no alternative, no remedy but to take legal proceedings which involved expense. Under this contract Mr. Robinson might have out the best man, competent, straightforward and honest and yet Mr. Robinson at the end of two years and ten months had the power to dismiss him under an alleged excuse and to claim the passage. Under that agreement if a man was dismissed he could not take any employment practically between America and India because the firm was over-time which was the reason why he had been dismissed and that Mr. Robinson only telegraphed for a back maker from Germany at a salary of \$100 per month. As this was the only opportunity he had of keeping his employment with Messrs. Lane, Crawford & Co., the only chance of gaining a livelihood, he did not see the fairness of Mr. Robinson being given the power to retrain him from keeping his employment. If his Lordship ruled that he had been badly conducted himself and that there was no extenuating circumstances and that Mr. Robinson was justified in dismissing him, then he would practically have to become a pauper, having no means for earning a livelihood. He contended that it was Mr. Robinson's vindictive spirit that had caused all the trouble and he placed the case unreservedly in His Lordship's hands.

Mr. Francis contended that Mr. Robinson was justified in dismissing Mr. Emsey, who had violated the contract by his misconduct. He submitted that Mr. Robinson was entitled to recover the entire amount of passage money and asked for a perpetual injunction for six years restraining Mr. Emsey in the terms of the notice of motion.

The Chief Justice went through the circumstances of the case and said that he was bound to hold that the allegations by Mr. Robinson that Mr. Emsey had been guilty of misconduct and neglect of duty were good. It was the duty of the Court to say that the conduct of Mr. Emsey was not such as a faithful and conscientious servant would show towards his employer. There was no proof that Mr. Robinson agreed that whenever Mr. Emsey was absent his salary would be deducted and it was plain on the evidence that there was plenty of work for all the tuners. On the other hand the fact that Mr. Robinson's customers the instant he was dismissed, he did not think that this would injure Mr. Robinson's interest. His Lordship dismissed the suit for wrongful dismissal and gave judgment in favor of Mr. Robinson for \$12.27 in the counter suit.

Mr. Francis asked for costs to be entered for Mr. Robinson, saying at the same time that he did not think that they would be enforced.

The Chief Justice—Under the circumstances, I suppose Mr. Robinson will see his way not to enforce it.

THE HONGKONG YACHT CLUB.

SECOND CLUB RACES, RESAILED.

The Second Club Races, not having been finished in time last week, were resailed, by the second class boats on Saturday the 26th round Channel Rocks, Kowloon Rock and Meyer's east buoy, starting at 2.30 p.m. and by the First Class next day, round a mark off Green Island, Compositon Dock buoy and Channel Rocks, starting at 1.15. The distances were 8 and 14 miles respectively.

The wind on Saturday was fairly steady from the north and the boats in consequence sailed early. The *Dart* led from start to finish and won with a couple of minutes to spare, but the *Ladybird* and *Princess* had a very tough struggle, getting to within a second, the *Ske* being only a few seconds beyond her time from both. *Payne* was late over the line and did not catch up with the others, and gave up after passing the Docks. The times were as follows:—

Channel Rocks, Finish. Points.

Dart 1.15 4.1 5 first 10

Ladybird 1.15 4.3 4.4 second 4

Princess 1.15 4.3 4.4 third 1

Ske 1.15 4.3 4.3

Payne 1.15 4.3 4.3

The class on Sunday had a moderately strong north wind down to the mark off Green Island which was rounded by the *Maid Marian* about a minute in front of anything else. *Phoebe*, *Bodie*, *Erica*, *Sybil*, *Alfred*, *Chanticleer* and *Mistral* following in a continuous string. It was a dead heat to the Compositon Dock buoy, and many changes took place on the way. The *Phoebe* for some time had a good lead, but on nearing the mark the wind was very changeable, and the *Chanticleer* was first round *Erica* second and *Bodie* third. In the reach to Kowloon Point *Erica* got into first place for a short time, but *Chanticleer* soon after passing the Police pier again assumed the lead and maintained it to the finish. The *Bodie* was second round the Channel Rocks, but was passed on the run down to the line by both *Erica* and *Phoebe*.

The line was crossed at the finish as follows:—

Chanticleer 4 37 52 First 10 points

Erica 4 42 18 Second 4

Phoebe 4 44 20

Bodie 4 45 1

Maid Marian 4 45 1

Sybil 4 45 2

Mistral 4 45 2

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Intimations.

NIPPON YUSEN KAISHA.

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KAWACHI MARU.....	MARSEILLES, LONDON and ANTWERP, VIA SINGAPORE, PENANG, COLOMBO and PORT SAID.	THURSDAY, 8th December, at 4 P.M.
KAMAKURA MARU.....	NAGASAKI, MOJI, KOBE & YOKOHAMA.	MONDAY, 12th December, at 4 P.M.
SANUKI MARU.....	MARSEILLES, LONDON, ANTWERP, VIA SINGAPORE, PENANG, COLOMBO and PORT SAID.	THURSDAY, 22nd Dec., at 4 P.M.
HIROSHIMA MARU.....	Kobe and YOKOHAMA.	THURSDAY, 22nd Dec., at 4 P.M.
OMI MARU.....	THURSDAY ISLAND, TOWNSVILLE, BRISBANE, SYDNEY and MELBOURNE.	FRIDAY, 30th December, at 4 P.M.

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Manager.

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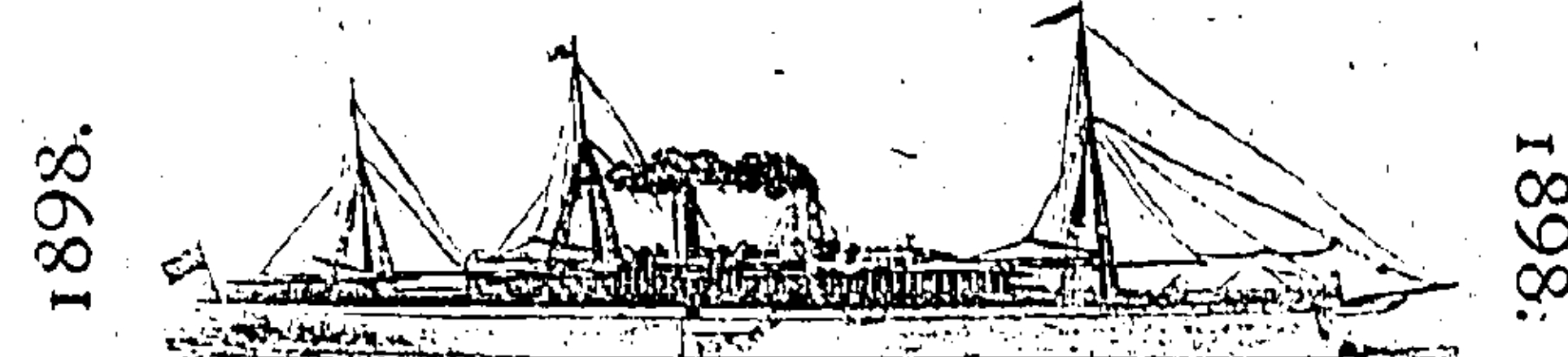
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Twin Screw Steamships—4,000 Tons—10,000 Horse Power—Speed 19 knots.

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EMPRESS OF CHINA.....Comdr. R. Archibald, R.N.R.....WEDNESDAY, 18th Jan., 1899.
EMPRESS OF INDIA.....Comdr. O. P. Marshall, R.N.R.....WEDNESDAY, 15th Feb., 1899.

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Acting General Agent,
Hongkong, 26th November, 1898.

TOYO KISEN KAISHA.

TO SAN FRANCISCO, VIA INLAND SEA OF JAPAN AND HONOLULU.

PROPOSED SAILINGS FROM HONGKONG.

NIPPON MARU (via Shanghai, Nagasaki, Kobe, Inland Sea, Yokohama and Honolulu).....Thursday, 15th Dec., 1898.

AMERICAN MARU (via Shanghai, Nagasaki, Kobe, Inland Sea, Yokohama and Honolulu).....Saturday, 14th Jan., 1899.

HONGKONG MARU (via Shanghai, Nagasaki, Kobe, Inland Sea, Yokohama and Honolulu).....Tuesday, 7th Feb., 1899.

THE Steamship

"NIPPON MARU," will be despatched for SAN FRANCISCO, VIA SHANGHAI, NAGASAKI, KOBE, INLAND SEA, YOKOHAMA and HONOLULU, on THURSDAY, the 15th December, 1898, at Noon, taking Freight and Passengers for Japan, the United States, and Europe.

Steamers of this line pass through the INLAND SEA OF JAPAN, and call at HONOLULU, and Passengers are allowed to break their journey at any point en route.

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Particulars of the various routes can be had on application.

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Hongkong, 26th November, 1898.

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VIA SHANGHAI, INLAND SEA, KOBE, AND YOKOHAMA.

PROPOSED SAILINGS FROM HONGKONG.

FOR VICTORIA, B.C., AND TACOMA.

IN CONNECTION WITH NORTHERN PACIFIC RAILWAY CO.

Victoria.....[3,167] J. Panton.....Dec. 6.

Tacoma.....[2,811] W. Smith.....Dec. 10.

Glenale.....[3,750] J. McGillicuddy.....Jan. 10.

Olympia.....[2,603] J. Truiche.....Jan. 14.

ALSO FOR PORTLAND, OREGON, IN CONNECTION WITH OREGON RAILROAD AND NAVIGATION COMPANY.

Lennox.....[3,677] Williamson.....Dec. 24.

Columbia.....[2,805] A. Gow.....Jan. 28.

Monmouthshire.....[2,874] W. A. Evans.....Feb. 19.

Lennox.....[3,677] Williamson.....Mar. 11.

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Excellent accommodation. First-class Table, Doctor and STEWARDSS carried.

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THE PENINSULAR AND ORIENTAL STEAM NAVIGATION COMPANY.

STEAM FOR STRAITS, CEYLON, AUSTRALIA, INDIA, ADEN, EGYPT, MEDITERRANEAN PORTS, PLYMOUTH AND LONDON.

(Through Bills of Lading issued for BATAVIA, PERSIAN GULF, CONTINENTAL and AMERICAN PORTS).

THE Steamship

"DALLAARAT" Captain C. L. W. Field, carrying Her Majesty's Mails, will be despatched from this for BOMBAY, &c., on SATURDAY, the 10th December, at Noon taking Passengers and Cargo for the above Ports.

Silk and Valuables, all Cargo for France and Tea for London (under arrangement) will be transhipped at Colombo into a steamer proceeding direct to Marseilles and London; other Cargo for London, &c., will be conveyed via Bombay.

Parcels will be received at this Office until 4 P.M. the day before sailing. The Contents and Value of all Packages are required.

Shippers are particularly requested to note the terms and conditions of the Company's Bills of Lading.

For further Particulars, apply to
H. A. RITCHIE,
Superintendent,
Hongkong, 28th November, 1898.

SAILING VESSEL.

FOR NEW YORK.

THE "3/3 A. I. American Ship."

"REUCE" Captain Adams, having arrived will load for above port and will have quick despatch.

For Freight, apply to
ARNOLD, KARBURG & Co.
Hongkong 5th November, 1898.

Mails.

NORTH GERMAN LLOYD.

(Freight Service.)

HAMBURG AMERICA LINE.

(East Asiatic Service.)



(Taking Cargo at through rates to AMSTERDAM, ROTTERDAM, LISBON, OPORTO, LIVERPOOL, GLASGOW, NORTH and SOUTH AMERICAN PORTS.)

PROJECTED SAILINGS FROM HONGKONG, SUBJECT TO ALTERATION.

STEAMERS.	DESTINATIONS.	SAILING DATES.
*SAVOIA.....	HARVE AND HAMBURG.....	About 1st December. Freight and Passage.
*KONIGSBERG.....	HAVRE AND HAMBURG.....	About 14th December. Freight and Passage.
BAMBERG.....	HAVRE AND HAMBURG.....	About 21st December. Freight.

*These Steamers have Superior Accommodation for Passengers and carry a Doctor and a Stewardess.

For further particulars as to Freight, Passage, &c., apply to
CARLOWITZ & Co., Agents,
Hongkong, 1st November, 1898.

U. S. MAIL LINE.

PACIFIC MAIL STEAMSHIP COMPANY.

VIA INLAND SEA OF JAPAN AND HONOLULU.

PROPOSED SAILINGS FROM HONGKONG.

City of Rio de Janeiro (via Shanghai, Nagasaki, Kobe, Inland Sea, Yokohama and Honolulu).....Thursday, 22nd Dec., at Noon.

City of Peking (via Shanghai, Nagasaki, Kobe, Inland Sea, Yokohama and Honolulu).....Saturday, 21st Jan., at Noon.

China (via Shanghai, Nagasaki, Kobe, Inland Sea, Yokohama and Honolulu).....Thursday, 16th Feb., at Noon.

THE U. S. Mail Steamship

"CITY OF RIO DE JANEIRO," will be despatched for SAN FRANCISCO, via SHANGHAI, NAGASAKI, KOBE, INLAND SEA, YOKOHAMA and HONOLULU, on THURSDAY, the 22nd December, at Noon, taking Passengers and Freight for Japan, the United States, and Europe.

Steamers of this line pass through the INLAND SEA OF JAPAN, and call at Honolulu, and passengers are allowed to break their journey at any point en route.

Through Passage Tickets granted to England, France, and Germany by all trans-Atlantic lines of Steamers, and to the principal cities of the United States or Canada. Rates may be obtained on application.

Passengers holding through ORDERS TO EUROPE have the choice of Overland Rail Routes from San Francisco, including the SOUTHERN PACIFIC, CENTRAL PACIFIC, UNION PACIFIC, DENVER and RIO GRANDE, and NORTHERN PACIFIC RAILWAYS; also the CANADIAN PACIFIC RAILWAY on payment of £4 in addition to the regular tariff rate.

Passengers holding Orders FOR OVERLAND CITIES in the United States have, between SAN FRANCISCO and CHICAGO, the option of the SOUTHERN PACIFIC, CENTRAL PACIFIC, UNION PACIFIC, DENVER and RIO GRANDE, and other direct connecting Railways, and from Chicago to destination the choice of direct lines.

Particulars of the various routes can be had on application.

Special rates (first class only) are granted to Missionaries, members of the Naval, Military, Diplomatic, and Civil Service, to European Officials in the service of China and Japan, and to Government officials and their families.

Through Bills of Lading issued for transportation to Yokohama and other Japan Ports, to San Francisco, to Atlantic and Inland Cities of the United States, via Overland Railway, to Havana, Trinidad, and Demerara, and to ports in Mexico, Central and South America, by the Company's and connecting Steamers.

Freight will be received on board until 4 P.M. the day previous to sailing. Parcel Packages will be received at the Office until 5 P.M. same day; all Parcel Packages should be marked to address in full; value of same is required.

Consular Invoices to accompany Cargo destined to Points beyond San Francisco in the United States, should be sent to the Company's Office in Sealed Envelopes, addressed to the Collector of Customs at San Francisco.

For further information as to Passage and Freight, apply to the Agency of the Company, No. 7, Praya Central.

J. S. VAN BUREN, Agent,
Hongkong, 30th November, 1898.

CALIFORNIA AND ORIENTAL STEAMSHIP COMPANY.

IN CONNECTION WITH THE ATCHESON TOPEKA & SANTA FE RAILROAD CO.

PROPOSED SAILINGS FROM HONGKONG TO SAN DIEGO VIA INLAND SEA OF JAPAN AND HONOLULU.

Taking Cargo and Passengers to JAPAN PORTS and HONOLULU, THE UNITED STATES, MEXICO, CENTRAL & SOUTH AMERICA, &c.

Belgian King.....[3,379] Thursday, 1st Dec. 15.

Carlisle City.....[3,652].....Jan. 14.

Carmarthenshire.....[2,929].....Feb. 15.

AT NOON.

"BELGIAN KING" will be despatched for SAN DIEGO VIA NAGASAKI, KOBE, INLAND SEA, YOKOHAMA and HONOLULU on or about THURSDAY, the 15th December, at NOON.

Through Bills of Lading issued to any point in the United States.

Cargo will be received on board until 5 P.M. the day previous to sailing. Parcel Packages will be received at the Office until 5 P.M. the same day; all Parcel Packages should be marked to address in full. Value of same is required.

Consular Invoices, to accompany cargo destined to Points beyond San Diego, should be sent to the Company's Office, addressed to the Collector of Customs, San Diego.

For further information as to Freight or Passage, apply to
BUTTERFIELD & SWIRE,
Agents,
Hongkong, China and Japan,
Hongkong, 8th November, 1898.

NORDEUTSCHER LLOYD.

NOTICE.

STEAM FOR SINGAPORE, COLOMBO, ADEN, SUEZ, PORT SAID, NAPLES, GENOA, ANTWERP, BREMEN AND HAMBURG, PORTS IN THE LEVANT, BLACK SEA AND BALTIC PORTS:

ALSO LONDON, NEW YORK, BOSTON, BALTIMORE, NEW ORLEANS, GALVESTON, AND SOUTH AMERICAN PORTS.

THE COMPANY'S STEAMERS WILL CALL AT SOUTHAMPTON TO LAND PASSENGERS AND LUGGAGE.

N.B.—CARGO CAN BE TAKEN ON THROUGH BILLS OF LADING FOR THE PRINCIPAL PLACES IN RUSSIA.

PROPOSED SAILINGS FROM HONGKONG.

(SUBJECT TO ALTERATION.)

Bayern.....Wednesday | 7th Dec.

Prins Heinrich.....Wednesday | 4th Jan.

Prinzess.....Wednesday | 1st Feb.

Sachsen.....